

REMARKS

Reconsideration and withdrawal of the rejections of the claimed invention is respectfully requested in view of the amendments, remarks and enclosures herewith, which place the application in condition for allowance.

I. STATUS OF CLAIMS AND FORMAL MATTERS

Claims 33, 36-38 and 40-53 are still pending in this application. The applicants thank the Examiner for the indication of allowable subject matter for claims 36-38 and 40-53; the rejection to claim 33 is addressed below.

With regard as to why this after final amendment should be entered, the applicants note that the current rejection was not part of the previous Office Action and no suggestions were given in the final rejection as to how to address the rejection. The present amendment represents the applicants' attempting to expedite prosecution by addressing the 112, second paragraph rejection.

No new matter has been added by this amendment.

It is submitted that the claims, herewith and as originally presented, are patentably distinct over the prior art cited in the Office Action, and that these claims were in full compliance with the requirements of 35 U.S.C. § 112.

II. THE 35 U.S.C. 112, 2nd PARAGRAPH REJECTION HAS BEEN OVERCOME

Claim 33 was rejected as allegedly being indefinite for lacking proper antecedent basis for the term "the unidirectional elastic part". Although the applicants believe that no amendment is necessary to claim 33 as one of ordinary skill in the art would be able to determine that the backing layer has two different directions, in order to expedite prosecution, the applicants have amended claim 33 to incorporate the language from page 4, lines 3-4 of the specification.

The applicants are also willing to entertain any suggestions that the Examiner may have regarding claims language.¹

¹ MPEP 707.07(g) states in part "[c]ertain technical rejections (e.g. negative limitations, indefiniteness) should not be made where the examiner, recognizing the limitations of the English language, is not aware of an improved mode of definition."

Also, MPEP 2173.02 states in part "[t]he examiner's focus during examination of claims for compliance with the requirement for definiteness of 35 U.S.C. 112, second paragraph is whether the claim meets the threshold requirements of clarity and precision, not whether more suitable language or modes of expression are available. When the examiner is satisfied that patentable subject matter is disclosed, and it is apparent to the examiner that the claims are directed to such patentable subject matter, he or she should allow claims which define with a reasonable

CONCLUSION

In view of the remarks and amendments herewith, the application is believed to be in condition for allowance. Favorable reconsideration of the application and prompt issuance of a Notice of Allowance are earnestly solicited. The undersigned looks forward to hearing favorably from the Examiner at an early date, and, the Examiner is invited to telephonically contact the undersigned to advance prosecution. The Commission is authorized to charge any fee occasioned by this paper, or credit any overpayment of such fees, to Deposit Account No. 50-0320.

Respectfully submitted,
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degree of particularity and distinctness. Some latitude in the manner of expression and the aptness of terms should be permitted even though the claim language is not as precise as the examiner might desire.” (underlining NOT added)